



Pension Schemes Act 1993

1993 CHAPTER 48

PART XI

GENERAL AND MISCELLANEOUS PROVISIONS

Modification powers

153 Power to modify certain provisions of this Act

- (1) The Secretary of State may by regulations direct that Chapters II, III and IV of Part IV and Chapter I of Part V (except section 108) shall have effect, in such cases as he may specify in the regulations, subject to such modifications as he may specify.
- (2) Regulations may modify Chapter I of Part IV—
 - (a) in its application to cases where an earner is for the time being, or has been, employed in pensionable service under, or in contracted-out employment by reference to, different schemes applying to the same employment;
 - (b) in such manner as the Secretary of State thinks fit for securing that the preservation requirements include requirements for provision to be made in a scheme as to the preservation of a member's benefit in the event of the scheme being wound up;
 - (c) without prejudice to paragraph (a) or (b), so that the preservation requirements apply with such modifications and exceptions as the Secretary of State considers to be necessary for particular cases or classes of case;and regulations under paragraph (a) may relate to service under or, as the case may be, by reference to different schemes at the same time, or at different times.
- (3) Regulations may provide for the equal access requirements to apply, whether to an occupational pension scheme or to terms of employment relating to membership of it, or to both, with such modifications and exceptions as the Secretary of State considers necessary for particular cases or classes of case.
- (4) Subsection (5) of section 118 applies to subsection (3) as if it were in that section.

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- (5) The Secretary of State may make regulations modifying Chapter I of Part VII, section 129 (so far as it applies to that Chapter) or section 144, in their application—
- (a) to any occupational pension scheme which applies to earners in employments under different employers;
 - (b) to any occupational pension scheme of which there are no members who are in pensionable service under the scheme;
 - (c) to any case where a partnership is the employer, or one of the employers, in relation to an occupational pension scheme; or
 - (d) in the case of regulations modifying section 144, to any case where the assets and liabilities of the scheme are transferred to another occupational pension scheme.
- (6) Regulations may also provide that sections 119 to 122 and section 129 (so far as it applies to those sections) shall not apply in relation to an occupational pension scheme of a prescribed description.
- (7) Regulations may modify the provisions of section 144 in any manner which the Secretary of State thinks appropriate with a view to securing the orderly implementation of those provisions and to obtaining general compliance with them.
- (8) The Secretary of State may by order provide that any enactment in Chapter II of Part VII which is specified in the order—
- (a) shall not apply to persons or to employments of such classes as may be prescribed in the order; or
 - (b) shall apply to persons or employments of such classes as may be so prescribed subject, but without prejudice to paragraph (a), to such exceptions or modifications as may be so prescribed;
- and in this subsection “employments” has the same meaning as in that Chapter.

154 Application of enactments as respects personal pension schemes

- (1) Regulations may provide that any provision of this Act which relates to occupational pension schemes (other than a provision to which subsection (2) applies) shall have effect in relation to personal pension schemes subject to prescribed modifications.
- (2) This subsection applies to section 66, section 111 so far as it relates to occupational pension schemes, (and Part VIII and section 153 so far as they have effect for the purposes of section 111 as it so relates), sections 117, 123 to 127, 155, 157, 160 and 161.

Information about schemes

155 Requirement to give information to the Secretary of State or the Board for the purposes of certain provisions

Regulations may require the furnishing by prescribed persons to the Secretary of State or the Board of such information as he or they require for the purposes of sections 7, 9, 26 to 33, 34, 38, 43 to 45 (so far as they relate to personal pension schemes), section 48 (so far as it relates to minimum contributions), section 50 (so far as it relates to personal pension schemes), section 54, sections 55 to 64 (so far as they relate to personal pension protected rights premiums), section 111 (and Part VIII and

section 153 so far as they have effect for the purposes of section 111), section 117 and section 159 (so far as it relates to protected rights payments).

156 Information as to guaranteed minimum pensions

The Secretary of State may give—

- (a) the trustees or managers of an occupational pension scheme which is not a money purchase contracted-out scheme; and
- (b) such other persons as may be prescribed,

information as to the amount of the guaranteed minimum pension to which it appears to him that any person is immediately or prospectively entitled under the scheme or as to any other matter required for calculating that amount.

157 Power of Secretary of State to obtain information in connection with applications under s. 124

- (1) Where an application is made to the Secretary of State under section 124 in respect of contributions to an occupational pension scheme or personal pension scheme falling to be made, by an employer, the Secretary of State may require—
 - (a) the employer to provide him with such information as the Secretary of State may reasonably require for the purpose of determining whether the application is well founded; and
 - (b) any person having the custody or control of any relevant records or other documents to produce for examination on behalf of the Secretary of State any such document in that person's custody or under his control which is of such a description as the Secretary of State may require.
- (2) Any such requirement shall be made in writing given to the person on whom the requirement is imposed and may be varied or revoked by a subsequent notice so given.
- (3) If a person refuses or wilfully neglects to furnish any information or produce any document which he has been required to furnish or produce by a notice under this section he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) If a person, in purporting to comply with a requirement of a notice under this section, knowingly or recklessly makes any false statement, he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (5) This section shall be construed as if it were in Chapter II of Part VII.

158 Disclosure of information between government departments etc

- (1) No obligation as to secrecy imposed by statute or otherwise on persons employed in relation to the Inland Revenue shall prevent information obtained or held in connection with the assessment or collection of income tax from being disclosed—
 - (a) to the Secretary of State,
 - (b) to the Department of Health and Social Services for Northern Ireland, or
 - (c) to an officer of either of them authorised to receive such information, in connection with the operation of this Act (except Chapter II of Part VII and sections 157 and 161) or of any corresponding enactment of Northern Ireland legislation.

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- (2) No such obligation shall prevent information from being disclosed to any member of the Board, or an officer of the Board authorised to receive it, in connection with the exercise by the Board of any of their functions.
- (3) No such obligation shall prevent such information as is mentioned in subsection (2) from being disclosed to any person whose duty it is to give advice to the Board, in so far as the information—
 - (a) is required by him solely to enable him to perform that duty adequately; and
 - (b) is information which the Board have power under any enactment to require any person to provide.
- (4) In relation to persons who are carrying on or have carried on a trade, profession or vocation income from which is chargeable to tax under Case I or II of Schedule D, disclosure under subsection (1) relating to that trade, profession or vocation shall be limited to information about the commencement or cessation of, and employed earners engaged in, that trade, profession or vocation, but sufficient information may also be given to identify the persons concerned.
- (5) Subsections (1) to (3) extend only to disclosure by or under the authority of the Inland Revenue.
- (6) Subject to subsection (7), information which is the subject of disclosure to any person by virtue of subsection (1), (2) or (3) shall not be further disclosed to any other person, except where the further disclosure is made—
 - (a) to a person to whom disclosure could by virtue of this section have been made by or under the authority of the Inland Revenue; or
 - (b) for the purposes of any civil or criminal proceedings in connection with the operation of this Act (except Chapter II of Part VII and sections 157 and 161); or
 - (c) for the purposes of sections 17 to 62 of the Social Security Administration Act 1992 or any corresponding provisions of Northern Ireland legislation; or
 - (d) in the case of such information as is mentioned in subsection (2), where the further disclosure—
 - (i) is made to the trustees or managers of an occupational pension scheme,
 - (ii) relates to a member of the scheme, and
 - (iii) is made with his consent.
- (7) The Secretary of State, the Inland Revenue and the Board may provide the Registrar with such information as he may request for the purposes of the register; and no obligation as to secrecy or confidentiality imposed by statute or otherwise on—
 - (a) persons employed in the Department of Social Security,
 - (b) persons employed in relation to the Inland Revenue, or
 - (c) the staff of the Board,shall prevent them from disclosing to the Registrar such information as is necessary for the purposes of the register.
- (8) The Board may inform any person claiming to be entitled to a pension under an occupational pension scheme or a personal pension scheme of the name and address of any person appearing to the Board to be responsible for paying that pension notwithstanding that information with respect to that matter has come into the Board's possession by virtue of this section.

Avoidance of certain transactions and provisions

159 Inalienability of guaranteed minimum pension and protected rights payments

- (1) Where—
- (a) a person is entitled or prospectively entitled to a guaranteed minimum pension under an occupational pension scheme or to payments giving effect to protected rights under such a scheme; and
 - (b) his entitlement is in respect of his or another person's service in employment which was contracted-out by reference to that scheme;
- then—
- (i) every assignment of or charge on that pension or those payments, and
 - (ii) every agreement to assign or charge that pension or those payments,
- shall be void.
- (2) In subsection (1), the references to assignments of and agreements to assign a guaranteed minimum pension do not include references to any assignment of or agreement to assign a policy of insurance or annuity contract in accordance with conditions prescribed by regulations under section 19(4)(b).
- (3) Subsection (1) has effect whether or not the assignment, charge or agreement was made at a time when the employment was contracted-out employment or the scheme was a contracted-out scheme in relation to the employment.
- (4) Every assignment of or charge on and every agreement to assign or charge protected rights under a personal pension scheme or payments giving effect to such protected rights shall be void.
- (5) On the bankruptcy of a person who—
- (a) is entitled or prospectively entitled as is mentioned in subsection (1), or
 - (b) is entitled to such rights or to such a payment as is mentioned in subsection (4),
- nothing shall pass to any trustee or other person acting on behalf of his creditors the assignment of which is or would be made void by either of those subsections.
- (6) In the application of this section to Scotland—
- (a) references to assignment shall be construed as references to assignation and “assign” shall be construed accordingly; and
 - (b) the reference to a person's bankruptcy shall be construed as a reference to the sequestration of his estate or the appointment on his estate of a judicial factor under section 41 of the Solicitors (Scotland) Act 1980.

160 Terms of contracts of service or schemes restricting choice to be void

- (1) Subject to such exceptions as may be prescribed—
- (a) any term of a contract of service (whenever made) or any rule of a personal or occupational pension scheme to the effect that an employed earner must be a member—
 - (i) of a personal or occupational pension scheme,
 - (ii) of a particular personal or occupational pension scheme, or
 - (iii) of one or other of a number of particular personal or occupational pension schemes,

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shall be void; and

- (b) any such term or rule to the effect that contributions shall be paid by or in respect of an employed earner—
 - (i) to a particular personal or occupational pension scheme of which the earner is not a member, or
 - (ii) to one or other of a number of personal or occupational pension schemes of none of which he is a member,
 shall be unenforceable for so long as he is not a member of the scheme or any of the schemes.

- (2) Subsection (1) shall not be construed so as to have the effect that an employer is required, when he would not otherwise be—
 - (a) to make contributions to a personal or occupational pension scheme; or
 - (b) to increase an employed earner's pay in lieu of making contributions to a personal or occupational pension scheme.

161 Provisions excluding Chapter II of Part VII to be void

Any provision in an agreement (whether a contract of employment or not) shall be void in so far as it purports—

- (a) to exclude or limit the operation of any provision of Chapter II of Part VII of this Act; or
- (b) to preclude any person from presenting a complaint to, or bringing any proceedings before, an industrial tribunal under that Chapter.

162 Removal of restrictions on friendly societies' pension business

- (1) The Secretary of State may make such regulations as he thinks appropriate for enabling a friendly society to conduct group insurance business with a view to the establishment of occupational pension schemes or personal pension schemes.
- (2) The power to make regulations under this section shall extend to enabling friendly societies to conduct group insurance business freed from any restrictions of the relevant legislation as to the amounts which a member, or a person claiming through a member, is entitled to receive from any one or more societies or branches.
- (3) Regulations under this section may include such adaptations and modifications of the relevant legislation, and such other supplementary and incidental provisions, as the Secretary of State considers to be necessary or expedient for achieving the purposes referred to in subsection (1).
- (4) In this section—
 - (a) “the relevant legislation” means the Friendly Societies Act 1974, the Friendly Societies Act 1992 and section 464 of the Income and Corporation Taxes Act 1988;
 - (b) “friendly society”, has the same meaning as in the Friendly Societies Act 1992; and
 - (c) “group insurance business” means—
 - (i) in relation to a registered friendly society, group insurance business within the meaning of section 65A of the Friendly Societies Act 1974, and

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(ii) in relation to an incorporated friendly society, group insurance business within the meaning of section 11 of the Friendly Societies Act 1992,
and in this paragraph “registered friendly society” and “incorporated friendly society” have the same meaning as in that Act of 1992.

163 Exemption of certain schemes from rule against perpetuities

- (1) The rules of law relating to perpetuities shall not apply to the trusts of, or any disposition made under or for the purposes of a personal or occupational pension scheme at any time when this section applies to it.
- (2) This section applies to—
 - (a) a public service pension scheme;
 - (b) an occupational pension scheme which is a contracted-out scheme in relation to any employment;
 - (c) a personal pension scheme which is an appropriate scheme; and
 - (d) an occupational or personal pension scheme which satisfies prescribed requirements.
- (3) Subsection (1) applies whether the trusts or dispositions in question are created or made before or after this section first applies to the scheme, but this section does not validate with retrospective effect any trusts or dispositions which the rules of law relating to perpetuities (including, where applicable, section 3(1) of the Perpetuities and Accumulations Act 1964 (“wait and see”)) already require to be treated as void before this section applies to the scheme.
- (4) Regulations under subsection (2)(d) may require a scheme—
 - (a) to contain provisions in any prescribed form, or to any prescribed effect; or
 - (b) to have tax-exemption or tax-approval or to be such a scheme that it may be expected to qualify for tax-exemption or tax-approval.
- (5) Such regulations may be so framed that, in prescribed circumstances, the requirements can be treated as satisfied if application has been duly made to the Inland Revenue with a view to obtaining tax-approval for the scheme.
- (6) Regulations may include provision by which a scheme (other than a public service pension scheme) to which this section ceases to apply may nevertheless be treated as continuing to be a scheme to which it applies for a period of two years from its ceasing to be such a scheme, or for such longer period as the Board consider to be reasonable in the case of a particular scheme.
- (7) If this section ceases to apply to a scheme, trusts created and dispositions made under it or for its purposes shall then again be subject to the rules of law relating to perpetuities as if this section had never applied to it.
- (8) Subsection (7) is without prejudice to any rights which vested while this section applied.
- (9) Regulations may provide for a scheme, whose fund was registered under the Superannuation and other Trust Funds (Validation) Act 1927 immediately before the repeal of that Act took effect, to retain the benefit of that Act subject to prescribed conditions and either indefinitely or for a prescribed period.

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Special classes of earner

164 Crown employment

- (1) Subject to subsection (3), the following provisions shall apply to persons employed by or under the Crown in like manner as if such persons were employed by a private person—
 - (a) Chapter I of Part IV and the other provisions of this Act, so far as they relate to the preservation requirements;
 - (b) the remaining provisions of this Act except for—
 - (i) sections 2 to 5, 136 to 138, 139(2) and (3), 140, 141, 142(1) to (4), 143, 153(2), 158(1) to (5), 162, 163, 172, 173 and 176 and Schedule 1;
 - (ii) Chapter II of Part VII and sections 157 and 161;
 - (iii) section 166 and the provisions mentioned in subsection (2).
- (2) A person who is employed by or under the Crown shall be treated as an employed earner for the purposes of sections 7, 9, 26 to 34, 38, 43 to 45 (so far as they relate to personal pension schemes), section 48 (so far as it relates to minimum contributions), section 50 (so far as it relates to personal pension schemes), section 54, sections 55 to 64 (so far as they relate to personal pension protected rights premiums), section 111 (and Part VIII and section 153 so far as they have effect for the purposes of section 111), sections 117, 154 and 155 and section 159 (so far as it relates to protected rights payments) and sections 160 and 166.
- (3) So far as subsection (1) relates to the provisions within paragraph (b) of that subsection, it does not apply to a person who is serving as a member of Her Majesty's forces.
- (4) Subject to subsections (3) and (5), a person who is serving as a member of Her Majesty's forces shall, while he is so serving, be treated for the purposes of the provisions within subsection (1)(b) and those within subsection (2) (except for sections 154 and 166) as an employed earner in respect of his membership of those forces.
- (5) The Secretary of State may make regulations modifying sections 41, 42, 46(1), 47(2) and (5) and 48 in such manner as he thinks proper, in their application to persons who are or have been members of Her Majesty's forces.
- (6) For the purposes of the application of Chapter II of Part VII and sections 157(1) and (2) and 161 in relation to employment by any such body as is referred to in Schedule 5 to the Employment Protection (Consolidation) Act 1978, that body shall not be regarded as performing functions on behalf of the Crown.
- (7) For the purposes of this section Her Majesty's forces shall be taken to consist of such establishments and organisations as may be prescribed, being establishments and organisations in which persons serve under the control of the Defence Council.

165 Application of certain provisions to cases with foreign element

- (1) Regulations may modify the provisions mentioned in subsection (2) in such manner as the Secretary of State thinks proper, in their application to any person who is, or has been, or is to be—
 - (a) employed on board any ship, vessel, hovercraft or aircraft;

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- (b) outside Great Britain at any prescribed time or in any prescribed circumstances; or
 - (c) in prescribed employment in connection with continental shelf operations.
- (2) The provisions referred to in subsection (1) are—
 - (a) sections 7, 9, 26 to 34, 38, 43 to 45 (so far as they relate to personal pension schemes), section 48 (so far as it relates to minimum contributions), section 50 (so far as it relates to personal pension schemes), section 54, sections 55 to 64 (so far as they relate to personal pension protected rights premiums), section 111 (and Part VIII and section 153 so far as they have effect for the purposes of section 111), sections 117, 154 and 155 and section 159 (so far as it relates to protected rights payments) and sections 160 and 166; and
 - (b) sections 41 and 42, subsections (1), (6) and (7) of section 46 (and subsection (8) of that section so far as it has effect for the purposes of those subsections), and sections 47(2) and (5) and 48.
- (3) Subject to subsection (4), regulations under subsection (1) may in particular provide—
 - (a) for any of those provisions to apply to any such person, notwithstanding that it would not otherwise apply;
 - (b) for any such provision not to apply to any such person, notwithstanding that it would otherwise apply;
 - (c) for excepting any such person from the application of any such provision where he neither is domiciled nor has a place of residence in any part of Great Britain;
 - (d) for the taking of evidence, for the purposes of the determination of any question arising under any such provision, in a country or territory outside Great Britain, by a British consular official or such other person as may be determined in accordance with regulations.
- (4) Paragraph (b) of subsection (3) does not apply as respects the application of the provisions mentioned in subsection (2)(b) and paragraphs (a), (c) and (d) of that subsection do not apply as respects the application of those provisions to such persons as are mentioned in paragraph (b) or (c) of subsection (1).
- (5) Without prejudice to the generality of subsection (1)(c), regulations made by virtue of that subsection as respects any provision mentioned in subsection (2)(b) may provide for that provision to apply to such a person as is mentioned in that subsection notwithstanding that he does not fall within the description of an employed or self-employed earner or does not fulfil conditions as to residence or presence in Great Britain.
- (6) Without prejudice to the generality of section 153(2)(c), regulations may modify Chapter I of Part IV in relation to schemes with any overseas element, that is to say, schemes established, or relating to employment, or with parties domiciled, resident or carrying on business, in any part of the world outside the United Kingdom, or otherwise not confined in their operation to the United Kingdom.
- (7) Chapter II of Part VII and section 157 do not apply—
 - (a) to employment where under his contract of employment the employee ordinarily works outside the territory of the member States, or
 - (b) to employment as master or as a member of the crew of a fishing vessel where the employee is remunerated only by a share in the profits or gross earnings of the vessel,

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and sections 124 and 125 do not apply to employment as a merchant seaman, but section 137 of the Employment Protection (Consolidation) Act 1978 (power to extend employment protection legislation) applies to Chapter II of Part VII and section 157 as it does to the provisions of that Act.

(8) In this section—

“continental shelf operations” means any activities which, if paragraphs (a) and (d) of subsection (6) of section 23 of the Oil and Gas (Enterprise) Act 1982 (application of civil law to certain off-shore activities) were omitted, would nevertheless fall within subsection (2) of that section; and

“employment as a merchant seaman” has the meaning given in section 144(5) of the Employment Protection (Consolidation) Act 1978.

Reciprocity with other countries

166 Reciprocity with other countries

(1) For the purpose of giving effect—

- (a) to any agreement with the government of a country outside the United Kingdom providing for reciprocity in matters relating to payments for purposes similar or comparable to the purposes of this Act, or
- (b) to any such agreement as it would be if it were altered in accordance with proposals to alter it which, in consequence of any change in the law of Great Britain, the government of the United Kingdom has made to the other government in question,

Her Majesty may by Order in Council make provision for modifying or adapting this Act in its application to cases affected by the agreement or proposed alterations.

(2) An Order in Council made by virtue of subsection (1) may, instead of or in addition to making specific modifications or adaptations, provide generally that this Act shall be modified to such extent as may be required to give effect to the provisions contained in the agreement or, as the case may be, alterations in question.

(3) The modifications of this Act which may be made by virtue of subsection (1) include provision—

- (a) for securing that acts, omissions and events having effect for the purposes of the law of the country in respect of which the agreement is made have a corresponding effect for the purposes of this Act (but not so as to confer a right to a double benefit);
- (b) for determining in cases where rights accrue both under this Act and under the law of that country, which of those rights is to be available to the person concerned; and
- (c) for making any necessary financial adjustments.

(4) An Order in Council made by virtue of subsection (1) which modifies or adapts any of the provisions referred to in section 164 may, in particular, provide for the Secretary of State to make payments for any period beginning on or after 6th April 1987 and may make provision with respect to any matters relating to payments so made.

(5) References in this section to this Act do not include references to sections 2 to 5, Chapter I of Part IV, Chapter II of Part VII, Part VIII so far as it applies for the purposes

of Chapter I of Part IV, sections 136 to 138, 139(2) and (3), 140, 141, 142(1) to (4), 143, 153(2), 157, 158(1) to (5), 161, 162, 163, 172, 173 and 176 and Schedule 1.

Application of provisions relating to social security administration

167 Application of general provisions relating to administration of social security

- (1) The Social Security Administration Act 1992 shall apply as if references to that Act in the provisions mentioned in subsection (2) included references to the provisions referred to in section 164(1)(b) of this Act (in this section referred to as “the relevant provisions”).
- (2) The provisions referred to in subsection (1) are the following provisions of the Social Security Administration Act 1992—
 - section 116 (legal proceedings)
 - section 125 (regulations as to notification of deaths)
 - section 177 (co-ordination with Northern Ireland)
 - section 180 (payment of travelling expenses by the Secretary of State).
- (3) Section 58 of that Act (regulations as to determination of questions and matters arising out of, or pending, reviews and appeals) shall apply to the relevant provisions as it applies to the Social Security Contributions and Benefits Act 1992.
- (4) The references in section 59(2)(a) of the Social Security Administration Act 1992 (procedure regulations) and in section 61(1)(a) of that Act (regulations as to matters arising pending determinations) to Parts II to IV of the Social Security Contributions and Benefits Act 1992 and to Part I of that Act shall be taken respectively to include a reference to section 46 and a reference to sections 41 and 42 of this Act.
- (5) Section 124 of the Social Security Administration Act 1992 (provisions relating to age, death and marriage) shall apply as if the information mentioned in subsection (1) of that section included information for the purposes of the relevant provisions.
- (6) Section 121 of the Social Security Contributions and Benefits Act 1992 (treatment of certain marriages) shall apply to the relevant provisions.

General provisions as to offences

168 Breach of regulations

Regulations under any provision of this Act (other than Chapter II of Part VII) may provide for the contravention of, or failure to comply with any provision contained in regulations under any such provision to be an offence under this Act and for the recovery on summary conviction for any such offence of penalties not exceeding—

- (a) for any one offence, level 3 on the standard scale; or
- (b) for an offence of continuing any such contravention or failure after conviction, £40 for each day on which it is so continued.

169 Offences by bodies corporate

- (1) Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable

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to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and be liable to be proceeded against accordingly.

- (2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

General provisions as to determinations and appeals

170 Determination of questions by Secretary of State

- (1) The questions to which section 17(1) of the Social Security Administration Act 1992 (questions for determination by the Secretary of State) applies include—
- (a) any question as to the amount of a person's guaranteed minimum for the purposes of section 13 or 17;
 - (b) any question—
 - (i) whether a state scheme premium is payable or has been paid in any case or as to the amount of any such premium; or
 - (ii) otherwise arising in connection with any state scheme premium;
 - (c) any question whether for the purposes of this Act a cash sum paid or an alternative arrangement made under the Policyholders Protection Act 1975 provides the whole or any part of the guaranteed minimum pension to which an earner or an earner's widow or widower was entitled under a contracted-out scheme; and
 - (d) any question arising in connection with minimum contributions or payments under section 7 of the Social Security Act 1986,
- other than a question such as is mentioned in paragraph (b)(ii) or (d) which is required by virtue of this Act to be determined by the Board.
- (2) The Secretary of State may make any determination required by subsection (1)(c) on such basis as he considers appropriate.
- (3) Any question arising under this Act as to whether the employment of an earner in employed earner's employment at any time is or was contracted-out employment in relation to him shall be referred by the Secretary of State to the Board and determined by them.
- (4) Neither section 17(1) nor section 20(1) of the Social Security Administration Act 1992 (questions for determination by adjudication officers) shall apply to any such question as is mentioned in subsection (3).
- (5) Any question arising in proceedings before any court or tribunal or before the Industrial Arbitration Board whether the rules of an occupational pension scheme conform with the equal access requirements shall be referred to and determined by the Board.
- (6) Subsection (4) of section 134 shall apply to determinations under subsection (5) as it applies to determinations under that section.

171 Questions arising in proceedings

- (1) Where in any proceedings—
- (a) for an offence under this Act; or
 - (b) involving any question as to the payment of a state scheme premium;
- any such question arises as is mentioned in section 170(1)(a), (b)(i) or (c), the decision of the Secretary of State shall be conclusive for the purpose of the proceedings.
- (2) If—
- (a) a decision on any such question is necessary for the determination of the proceedings; and
 - (b) the decision of the Secretary of State has not been obtained or a question has been raised with a view to a review of the decision obtained,
- the question shall be referred to the Secretary of State for determination or review in accordance (subject to any necessary modifications) with sections 17 to 19 of the Social Security Administration Act 1992.
- (3) Subsection (1) does not apply if—
- (a) an appeal under section 18 of that Act is pending; or
 - (b) the time for appealing has not expired; or
 - (c) a question has been raised with a view to a review of the Secretary of State's decision under section 19 of that Act,
- and the court dealing with the case shall adjourn the proceedings until such time as a final decision on the question has been obtained.

172 Review of the Board's determinations

- (1) Subject to the provisions of this section and section 173, where the Board have—
- (a) determined to issue, cancel or vary a contracting-out certificate or an appropriate scheme certificate; or
 - (b) determined to make, or not to make, any order which they have power to make under section 136, 139 or 142; or
 - (c) determined any other question which it is within their functions to determine, their determination shall be final.
- (2) The Board may on the application of a person appearing to them to be interested—
- (a) at any time review any such determination of theirs as is mentioned in subsection (1), or a determination given by them on a previous review, if they are satisfied that there has been a relevant change of circumstances since the determination was made, or that the determination was made in ignorance of a material fact or based on a mistake as to a material fact or was erroneous in point of law;
 - (b) at any time within a period of six months from the date of the determination, or within such longer period as they may allow in any particular case, review such a determination on any ground.
- (3) The Board's powers on a review under this section shall include power—
- (a) to vary or revoke any determination or order previously made;
 - (b) to substitute a different determination or order; and
 - (c) generally to deal with the matters arising on the review as if they had arisen on the original determination.

Status: This is the original version (as it was originally enacted).

- (4) Subject to subsection (5), regulations made by the Secretary of State may make provision with respect to the procedure to be adopted on any application for a review under this section or under any corresponding provision in force in Northern Ireland and generally with respect to such applications and reviews.
- (5) Nothing in subsection (4) shall be taken to prevent such a review being entered upon by the Board without an application being made.

173 References and appeals from the Board

- (1) Any question of law arising in connection with—
 - (a) any matter arising under this Act for determination by the Board;
 - (b) any other matter which under section 170(3) falls to be determined by them;
 - (c) any matter arising on an application to the Board for a review of a determination by them, or on a review by them entered upon without an application,may, if the Board think fit, be referred for decision to the court.
- (2) If the Board determine in accordance with subsection (1) to refer any question of law to the court, they shall give notice in writing of their intention to do so—
 - (a) in a case where the question arises on an application made to the Board, to the applicant; and
 - (b) in any case to such persons as appear to them to be concerned with the question.
- (3) Any person who is aggrieved—
 - (a) by a determination of the Board given on a review under section 172, or
 - (b) by the refusal of the Board to review a determination,where the determination involves a question of law and that question is not referred by the Board to the court under subsection (1), may on that question appeal from the determination to the court.
- (4) The Board shall be entitled to appear and be heard on any reference or appeal under this section.
- (5) The provision made by rules of court shall include provision for regulating references and appeals to the court under this section and for limiting the time within which such appeals may be brought.
- (6) Notwithstanding anything in any enactment, the decision of the court on a reference or appeal under this section shall be final.
- (7) On any such reference or appeal the court may order the Board to pay the costs or, in Scotland, the expenses of any other person, whether or not the decision is in that other person's favour and whether or not the Board appear on the reference or appeal.
- (8) In this section “the court” means—
 - (a) in England and Wales, the High Court;
 - (b) in Scotland, the Court of Session.

Financial provisions

174 Grants by the Board to advisory bodies etc

- (1) The Board may make grants on such terms and conditions as they think fit to any person or body of persons providing advice or assistance, or carrying out other prescribed functions, in connection with occupational or personal pensions.
- (2) The Secretary of State may pay the Board such sums as he may think fit towards any expenditure of theirs in making grants under this section.

175 Levies towards meeting certain costs and grants

- (1) For the purpose of meeting some or all of the expenditure under sections 6 and 174 and Part X regulations may make provision for imposing a levy in respect of such occupational or personal pension schemes as may be prescribed.
- (2) Any levy imposed under this section shall be payable to the Secretary of State by or on behalf of—
 - (a) the administrators of such public service pension schemes as may be prescribed;
 - (b) the trustees or managers of such other occupational or personal pension schemes as may be prescribed; or
 - (c) such other persons as may be prescribed,at such rates and at such times as may be prescribed.
- (3) The amount payable by any person on account of the levy shall be a debt due from him to the Secretary of State and shall be recoverable accordingly.
- (4) Without prejudice to the generality of subsection (1), regulations under this section may include provision relating to the collection and recovery of amounts payable by way of levy under this section.

176 Fees for official services to schemes

Where at the request of the trustees or managers of an occupational pension scheme or a personal pension scheme or of any employer of earners who are members of such a scheme, official services are provided in connection with the operation or administration of the scheme either by the Secretary of State or by the Board on his behalf, the Secretary of State may require the payment of fees for the provision of those services.

177 General financial arrangements

- (1) Subject to the following provisions of this section, all expenses incurred by the Secretary of State under this Act shall be paid out of money provided by Parliament except so far as they may be required by any enactment to be paid or borne in some other way.
- (2) There shall be paid out of the National Insurance Fund—
 - (a) minimum contributions paid by the Secretary of State under section 43;
 - (b) payments by him under section 124.

Status: This is the original version (as it was originally enacted).

- (3) Subject to subsection (4), there shall be paid out of the National Insurance Fund into the Consolidated Fund—
- (a) sums equal to the amount of any expenses incurred by the Secretary of State (or by persons acting on his behalf) in exercising his functions under Chapter II of Part VII and section 157;
 - (b) such sums as the Secretary of State may estimate to be the amount of the administrative expenses of the Secretary of State or any government department in carrying into effect the remaining provisions of this Act, other than—
 - (i) sections 2 to 5, Chapter I of Part IV and Part VIII so far as it applies for the purposes of that Chapter, sections 136 to 138, 139(2) and (3), 140, 141, 142(1) to (4), 143, 153(2), 158(1) to (5), 162, 163, 172, 173 and 176 and Schedule 1;
 - (ii) sections 7, 9, 26 to 34, 38 and 50 (so far as they relate to personal pension schemes), section 54, sections 55 to 64 (so far as they relate to personal pension protected rights premiums), section 111 (and Part VIII and section 153 so far as they have effect for the purposes of section 111), sections 117, 154 and 155 and section 159 (so far as it relates to protected rights payments) and sections 160 and 166.
- (4) The sums payable under subsection (3)(b)—
- (a) shall be estimated in accordance with any directions given by the Treasury and (except in the case of functions relating to minimum contributions) shall exclude such categories of expenses as the Treasury may direct, or any enactment may require, to be so excluded; and
 - (b) shall be payable at such times and in such manner as the Treasury may direct.
- (5) There shall be paid into the Consolidated Fund—
- (a) subject to subsection (6), so far as it relates to payments out of money provided by Parliament, any sum recovered by the Secretary of State under or by virtue of the provisions within subsection (3)(b)(ii); and
 - (b) all fees paid to the Registrar.
- (6) So far as any such sum relates to a payment out of the National Insurance Fund, it shall be paid into that Fund.
- (7) There shall also be paid into the National Insurance Fund—
- (a) sums recovered under section 43(5) or (6);
 - (b) any personal pension protected rights premium;
 - (c) any sum recovered by the Secretary of State in exercising any right or pursuing any remedy which is his by virtue of section 127; and
 - (d) any sums received by him by way of such payments as are mentioned in paragraph 5(4) of Schedule 2.